



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

BODIES IN BALANCE MEDICAL

Carrier's Austin Representative

Box Number 01

MFDR Date Received

August 12, 2013

Respondent Name

LIBERTY INSURANCE CORP

MFDR Tracking Number

M4-13-3275-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Received call from Victoria Spinker, this claim transferred to a Liberty Network, patient reevaluated and transferred to concentra clinic to continue with medical care."

Amount in Dispute: \$2,965.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "This claim is part of the Certified Network. Dr. Emilio Cardona is not part of Liberty's HCN. Liberty is liable for treatment to OON providers when it's for emergency care, health care provided to an injured employee who does not live within the service area of any network established by the insurance carrier or with which the insurance carrier has a contract; and health care provided by an out-of-network provider pursuant to a referral from the injured employee's treating doctor that has been approved by the network pursuant to Section 1305.103. Claimant decided to treat with non-HCN provider. Attempts have been made to contact both claimant and provider to advise them of this fact. Liberty will have to stand by denial."

Response Submitted by: Liberty Mutual Insurance

DISPUTED SERVICES SUMMARY

Dates of Service	Disputed Services	Amount In Dispute	Amount Ordered
December 12, 2012 through January 9, 2013	97001, 97140 and 97112	\$2,965.00	\$0.00

BACKGROUND

1. 28 Texas Administrative Code §133.307, 37 TexReg 3833, applicable to medical fee disputes filed on or after June 1, 2012, sets out the procedures for resolving medical fee disputes.
2. Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks

FINDINGS AND DECISION

Issue

1. Did the requestor meet the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305 to file for medical fee dispute resolution?
2. Is this dispute eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307?

Findings

Bodies in Balance Medical filed this medical fee dispute to the Division asking for resolution pursuant to 28 Texas Administrative Code (TAC) §133.307 titled *MDR of Fee Disputes*. The authority of the Division of Workers' Compensation to apply Texas Labor Code statutes and rules, including 28 TAC §133.307, is limited to the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305. In particular, TIC §1305.153 (c) provides that "Out-of-network providers who provide care as described by Section 1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation." Bodies in Balance Medical therefore have the burden to prove that the condition(s) outlined in Texas Insurance Code §1305.006 were met in order to be eligible for dispute resolution of the facility services provided. The following are the Division's findings.

1. Texas Insurance Code Section 1305.006 requires, in pertinent part, that "(3) health care provided by an out-of-network provider pursuant to a referral from the injured employee's treating doctor that has been approved by the network pursuant to Section 1305.103."

Texas Insurance Code Section 1305.103 requires, in pertinent part, that "(e) A treating doctor shall provide health care to the employee for the employee's compensable injury and shall make referrals to other network providers, or request referrals to out-of-network providers if medically necessary services are not available within the network. Referrals to out-of-network providers must be approved by the network..."

2. The requestor, Bodies in Balance Medical, has the burden to prove that it obtained the appropriate approval from Liberty Mutual Healthcare Network for the out-of-network care it provided. The requestor, Bodies in Balance Medical, in its appeal for payment dated May 7, 2013 states "Received call from Victoria Spinker, this claim transferred to a Liberty Network, patient reevaluated and transferred to concentra clinic to continue with medical care."

The requestor included a copy of the preauthorization letter dated December 13, 2012, authorization number 123470462S001001 which states, "In order to receive payment, any provider or facility who delivers services associated with this preauthorization request must be a member of the Liberty Health Care Network unless prior approval to involve out-of-network providers or facilities has been granted. If you have any questions regarding your network status, please contact the claims case manager assigned to this claim." Although a letter dated December 13, 2012 supports that the requestor received preauthorization for the disputed services, no documentation was found to support that Bodies in Balance Medical received its own, separate referral from Liberty Mutual Healthcare Network to treat the injured employee at its location. The Division concludes that Bodies in Balance Medical did not receive approval from the Liberty Mutual Healthcare Network to treat the injured employee, thereby failing to meet the requirements of Texas Insurance Code Section 1305.006(3).

3. The requestor Bodies in Balance Medical failed to prove in this case that that the requirements of Texas Insurance Code Section 1305.006(3) were met. Consequently, the services in dispute are not eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307.

DECISION

Based upon the documentation submitted by the parties, the Division has determined that this dispute is not eligible for resolution pursuant to 28 Texas Administrative Code §133.307.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

October 30, 2014

Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim. The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).